

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WINIFRED BLACKLEDGE,)
)
Plaintiff,)
)
v.)
)
ALABAMA DEPARTMENT OF)
MENTAL HEALTH & MENTAL)
RETARDATION & COMMISSIONER)
JOHN HOUSTON, in his Official)
Capacity as Commissioner of the)
Alabama Department of Mental)
Health & Mental Retardation)
)
Defendants.)

CASE NO. 2:06CV-321-ID

MOTION TO ACCEPT OUT OF TIME

COME NOW, the Defendants, Alabama Department of Mental Health & Mental Retardation and Commissioner John Houston, in his Official Capacity as Commissioner of the Alabama Department of Mental Health & Mental Retardation (hereinafter referred to collectively as Defendants), by and through Deputy Attorney General, Courtney W. Tarver, and would show unto this Court as follows:

1. The Defendants received copies of the Complaint by United States Mail on April 26, 2006.
2. The Defendants signed and returned to Plaintiff's Counsel Waiver of Service of Summon forms on May 5, 2006.
3. Based upon the April 14, 2006 date of the Waivers of Service of Summons forms the original deadline for submitting an answer for each Defendant was June 13, 2006.

4. Due to technical problems beyond the control of undersigned counsel for Defendants a response was unable to be electronically filed by the due date.

5. Counsel representing plaintiffs in this case were given verbal notice on June 13, 2006 that a response could not be filed prior to the normal deadline.

6. Thereafter, the undersigned was engaged in several departmental emergencies including working to thwart a potential employee walkout at a key departmental facility due to changes in the State's pay system, as well as the necessity to travel out of state.

7. The undersigned consulted plaintiff's counsel verbally and in writing seeking indulgence in the spirit of the rules and in consideration that the plaintiff would not be prejudiced, on to which plaintiff's counsel has accommodated.

Wherefore the defendants respectfully request acceptance of this answer out of time.

Respectfully submitted this the 28TH day of June, 2006.

TROY KING (KIN047)
ATTORNEY GENERAL

/s/ Courtney W. Tarver
Courtney W. Tarver (TAR009)
DEPUTY ATTORNEY GENERAL/
GENERAL COUNSEL
Attorney for Alabama Department of Mental
Health & Mental Retardation and Commissioner
John Houston

OF COUNSEL:
Alabama Department of Mental Health
And Mental Retardation
P.O. Box 301410
Montgomery, AL. 36130-1410
(334) 242-3038
(334) 242-0924 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the following: Rocco Calamusa, Esq., Joshua D. Wilson, Esq., and Benjamin J. DeGweck, Esq.

Rocco Calamusa, Esq.
Joshua D. Wilson, Esq.
Benjamin J. DeGweck, Esq.
Wiggins, Childs, Quinn & Pantazis, P. C.
The Kress Building
301 19th Street North
Birmingham, Alabama 35203

/s/ Courtney W. Tarver
Courtney W. Tarver